

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CESAR A. BARTUREN, RAYMUNDO LARA  
MOLINA, MIGUEL EDUARDO TABARA,  
MARCO ANTONIO CORONA, JUAN CARLOS  
MOLINA, JULIO CESAR MORENO GONZALEZ  
PEDRO HERNANDEZ HERNANDEZ, JULIO  
ANTONIO, JULIO CARBONEL, EUSEBIO SANTOS  
FEROSQUILLO, JASON BORGES, LINO MARTINEZ,  
JUAN JOSE PENA FARFAN, JOSE FERNANDEZ,  
AND JORGE LEGIS CUYATE CARMONA,  
on behalf of themselves and all other employees  
similarly situated as class and collective representatives,  
Plaintiffs,

AFFIDAVIT

07-CV-8127

-against-

WILD EDIBLES, INC, 535 THIRD AVENUE, LLC  
d/b/a WILD EDIBLES, RICHARD MARTIN  
AND JONATHAN MEYER,  
Defendants.

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STATE OF NEW YORK }  
                              } S.S.  
COUNTY OF QUEENS )

LUIS CARBONEL, being duly sworn, deposes and states:

1. I am an employee of Wild Edibles. I work in the warehouse at 21-51 Borden Avenue in Long Island City. I have worked here since 1998.
2. I am the leadman of the warehouse employees, which include "pickers and packers", filet men, tuna cutters, oyster men and the frozen product area. One of my main jobs is to make sure each night that we have enough employees, and the right employees, to be able to prepare and fill that night's orders. If we need tuna cut, for example, we need to make sure the tuna cutter came to work. So each night I need to know which employees have come to work and which ones have not or will not come to work so we can make any adjustments if we have to. I work with Richie Rice in the office to make

sure there are employees working on every order to be filled. Before Richie I worked with Eddie Torres.

3. Any employee who is not going to come to work is supposed to call the office and let them know. When I come in I check with the office to see who has called to say they won't be in. Sometimes an employee will call me directly to tell me they won't be in. When that happens I go to the office to let them know. We also tell each other when we discover that an employee has not come to work and did not call to tell us.

4. I remember the last night that Lino Martinez worked with us. Lino's job was picking and packing oyster orders. Lino came to work at the regular time. Carlos Molina, who usually worked with him, was a "no call -no show". Miguel Tabara, who we call "Lallo" was re-assigned to work on the oysters with Lino.

5. Later that night I found out that Lino had left work in the middle of the shift, just after break. Lino did not tell me he was going home. Lino did not tell me he was sick. Lino did not tell me hurt his back.

6. Jose Fernandez Tavera worked in the as a tuna cutter and fillet man. He was scheduled to work on October 8. He did not come to work that night. I checked with Richie Rice and was told that Jose had not left a message. Jose never called me to tell me he would not be in that night. Lallo was assigned to cover the tuna cutting that night. I know Lallo is Jose's brother and they live in the same house. I asked Lallo why his brother did not come in or call us. Lallo said, "I don't know, I knocked on his door and nobody answered".

7. I did not call Jose and tell him he was fired. I did tell Carlos Molina that Rich Martin has said that Jose should not bother coming back unless he had an excuse.

8. Raul Molina worked in the warehouse picking lobsters and maintaining the lobster tank. He was scheduled to come to work on August 29<sup>th</sup>. He did not call me say

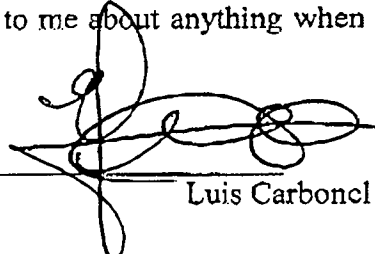
he would not be in that night. I checked with the office that night and was told he had not called or left a message either.

9. I never called Raul to tell him he was terminated. I never called anyone else to say he was terminated.

10 Carlos Molina has told me that Raul is working in construction with another former employee, Eusebio Santos. Carlos also told me that Raul's brother Reymundo is working in a restaurant.

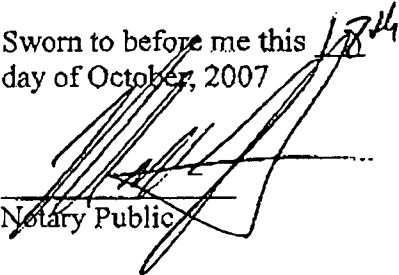
11. Marco Antonio Corona was employed here as a fillet man. He was scheduled to work on Saturday, Sept. 15<sup>th</sup>. He did not come to work or call to say he would not be in. On Monday Carlos Molina told me that Marco would not be back because he quit to take another job.

12. Marco had never complained to me about anything when he was employed. He never complained about anything



Luis Carbonel

Sworn to before me this 17<sup>th</sup>  
day of October, 2007



Notary Public

MATTHEW HOVEY  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01HO6174815  
Qualified in Queens County  
My Commission Expires September 24, 2011

